

## **Chapter 8**

### **Financial Need**

#### **8.1 Authority: CFR 361.54**

#### **8.2 Policy**

##### **a. General Overview**

The Utah State Office of Rehabilitation (USOR) utilizes a financial needs test to determine the extent of client/family participation in the cost of Vocational Rehabilitation (VR) services for eligible individuals and individuals receiving services through trial work or extended evaluation. USOR requires the application of a financial needs test before non-exempt paid VR services can be provided.

Clients must complete the Confidential Report of Financial Circumstances (USOR Form 5) prior to receiving any non-exempt paid service (see list below for exempt paid services). The VR Counselor then completes the Financial Needs Assessment (USOR Form 48) to determine appropriate client/family contribution toward non-exempt paid services. The VR Counselor will use professional skills and judgment to determine the appropriate use of client contribution toward non-exempt paid services. The agreed upon allocation of the client contribution should be documented in the client record in AWARE.

A VR Counselor may use their professional discretion to document extenuating individual circumstances where requiring client/family contribution toward non-exempt paid services would prevent the individual from engaging in meaningful employment and independence. An example would be in cases where the client's parents or significant others, in an effort to prevent the employment of the eligible individual or to restrict the individual's independence, refuse to pay toward any paid service. In such cases USOR does not intend that the client is unable to access any VR services and therefore prevent employment and independence. Such exceptions should include consultation with the supervisor and be very well documented in the client record.

##### **b. Exempt Services**

34 CFR 361.54(b)(3) states the following:

"The designated State unit may not apply a financial needs test, or require the financial participation of the individual as a condition for furnishing the following vocational rehabilitation services" The following services are exempt from client financial participation: (A) Assessment for determining eligibility and priority for services under 34 CFR 361.48(b)(1), except those non assessment services that are provided to an individual with a significant disability during either an exploration of the individual's abilities, capabilities, and capacity to perform in work situations through the use of trial work experiences under 34 CFR 361.42(e). (B) Assessment for determining vocational rehabilitation needs under 34 CFR 361.48(b)(2). (C) Vocational

rehabilitation counseling and guidance under 34 CFR 361.48(b)(3). (D) Referral and other services under 34 CFR 361.48(b)(4). (E) Job-related services under 34 CFR 361.48(b)(12). (F) Personal assistance services under 34 CFR 361.48(b)(14). (G) Any auxiliary aid or service (e.g., interpreter services under 34 CFR 361.48(b)(10), reader services under 34 CFR 361.48(b)(11)) that an individual with a disability requires under section 504 of the Act (29 U.S.C. 794) or the Americans with Disabilities Act (42 U.S.C. 12101, et seq.), or regulations implementing those laws, in order for the individual to participate in the vocational rehabilitation program as authorized under this part.”

In accordance with this regulation, the following services are exempt from the financial need assessment:

- i. “Assessment for determining eligibility and priority for services by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology, in accordance with 34 CFR 361.42” [34CFR 361.48(b)(1)]. This does not include services provided as part of an extended evaluation through use of a trial work experience. Examples include:
  - A. psychological evaluations
  - B. medical evaluations
- ii. “Assessment for determining vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology, in accordance with 34 CFR 361.45” 34 CFR 361.48(b)(2)]. These assessments are conducted after eligibility has been established and provide valuable information to determine the nature and scope of VR Services. Examples include:
  - A. Work Strategy Assessments
  - B. Discovery Assessments
  - C. Assistive Technology Assessments
  - D. Medical and psychological evaluations to prescribe treatment plans and develop restoration goals
- iii. “Vocational rehabilitation counseling and guidance, including information and support services to assist an individual in exercising informed choice in accordance with 34 CFR 361.52” [34 CFR 361.48(b)(3)]. Examples include:
  - A. Job Exploration Counseling
  - B. Counseling on Post-Secondary Opportunities
  - C. Instruction in Self Advocacy
- iv. “Referral and other services necessary to assist applicants and eligible individuals to secure needed services from other agencies, including other components of the statewide workforce development system, in accordance with 34 CFR 361.23, 361.24, and 361.37, and to advise those individuals about client assistance programs established under 34 CFR part 370” 34 CFR 361.48(b)(4)]. Examples include:
  - A. Service Brokering (see Chapter 30)

- v. “Job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services” [34 CFR 361.48(b)(12)].  
Examples include:
  - A. Supported Job Based Training
  - B. Supported Employment
  - C. On-the-Job Training
  - D. Work-Based Training
  - E. Work Based Learning
- vi. “Personal assistance services in accordance with the definition of that term in 34 CFR 361.5(c)(39)” [34 CFR 361.48(b)(14)]. “Personal assistance services means a range of services, including, among other things, training in managing, supervising, and directing personal assistance services, provided by one or more persons, that are (i) Designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform without assistance if the individual did not have a disability; (ii) Designed to increase the individual’s control in life and ability to perform everyday activities on or off the job; (iii) Necessary to the achievement of an employment outcome; and (iv) Provided only while the individual is receiving other vocational rehabilitation services. The services may include training in managing, supervising, and directing personal assistance services” [34 CFR 361.5(c)(39)]. Personal assistance services may be used to help the client perform activities of daily living including getting up and ready for work, bathing, dressing, cooking, cleaning, and running errands. In the workplace, personal assistance services including retrieving materials out of reach, hiring an individual to provide travel assistance to a client with a mobility impairment, help an individual with a cognitive disability in decision making, reading printed materials to an employee who is visually impaired. These services may be provided by a CRP, CNA, Home Health aide, or other individual selected through informed choice to assist the client. Examples of personal assistance services include:
  - A. Hourly Personal Assistance Services
  - B. Life Skills Training
  - C. Work Readiness Training
- vii. “Any auxiliary aid or service (e.g., interpreter services under 34 CFR 361.48(b)(10), reader services under 34 CFR 361.48(b)(11)) that an individual with a disability requires under section 504 of the Act (29 U.S.C. 794) or the Americans with Disabilities Act (42 U.S.C. 12101, et seq.), or regulations implementing those laws, in order for the individual to participate in the vocational rehabilitation program as authorized under this part.” [34 CFR 361.54(b)(3)(G)]. Examples include:
  - A. Interpreter services, including sign language and oral interpreter services, for individuals who are deaf or hard of hearing and tactile interpreting services for individuals who are deafblind provided by qualified personnel” [34 CFR 361.48(b)(10)]
  - B. Reader services.

### 8.3 VR Counselor Responsibility

Establishing financial need for each client is the responsibility of the VR Counselor. The VR Counselor takes into consideration the individual's entire financial situation in making the decision. The VR Counselor may not provide services to anyone who has the resources to pay for such services, except those described as exempt in 8.2.b., unless individual circumstances such as those discussed in 8.2.a. above can be documented. The determination of financial need must be completed prior to the development of an IPE and before services are provided in trial work or extended evaluation. Skillful counseling is required in determining and explaining financial need and negotiation of financial participation. The financial needs test must not be used as a means to "screen out" or discourage applicants and clients from participating in the VR program. Clients should understand the benefit of unpaid services available as well as the exempted services. The USOR Forms 5 and 48 should not be included with the application packet as this can lead to client misunderstanding and inappropriate self-screening from VR services. These forms may be completed after eligibility has been established and must be completed before an IPE is developed.

### 8.4 Client & Family Participation

Families are to be encouraged to participate financially in the client's rehabilitation program if possible. Clients who are unemancipated minors or married will need to report family income on the Confidential Report of Financial Circumstances however some exceptions are allowed. Prior to completing the Confidential Report of Financial Circumstances (USOR 5), determine which of the following four categories (a-d) best fits the client's circumstances to determine if parental or spousal income should be reported.

- a. If a client is single, under 18 years of age, and unemancipated; his/her income, plus that of his/her parent(s) must be considered. Uniform Civil Liability for Support Act (Utah Code 78- 45-4.2; 1993)
- b. If a client is single, under 18 years of age, living with a guardian, financial need shall be based on client's income. Power and Duties of Guardian (Utah Code 75-5-209; 1993)
- c. If the client is single, 18 years of age or over, but is living with parent, financial need shall be based on client's income only. Period of Minority (Utah Code 15-2-1; 1993) This rule applies to all single clients over 18 even if another individual has been granted guardianship rights for the client.
- d. Where client is married (including common law marriages) regardless of age, financial need shall be based on income of client and spouse. [Duty of man--Duty of Woman, Uniform Civil Liability for Support Act (Utah Code 78-45-3, 78-45-4; 1993).] All spousal income will be considered regardless of source.

Exception: USOR has experienced cases where the client's spouse refuses to participate financially in the cost of paid services in order to prevent the client from engaging in employment and maximizing independence. Such cases are rare and an exception should never be made simply because the client and spouse do not wish to contribute to the cost of non-exempt paid services. (See 8.2.a. above)

### 8.5 Individuals Subject to Financial Need

All VR clients are subject to determination of financial need except recipients of SSI/SSDI. Refusal to complete USOR Form 5 will constitute not meeting financial need criteria. This means that only the services exempt from financial need listed in 8.2.b above may be provided. No other services may be funded until the client completes the USOR Form 5, and financial need is established.

### 8.6 Confidential Report of Financial Circumstances (USOR form 5)

The Confidential Report of Financial Circumstances is an overview of the client's monthly income and expenses and should be completed and signed by the client.

#### a. Dependents

Enter the client's marital status as well as the names and birthdates of all household dependents. Dependents listed, other than spouse, should be 17 years or younger. Exceptions must meet IRS dependent relationship, income and support tests. For example, dependents over the age of 17 claimed must have lived in the home all year, had income less than \$3,000, or be a full time student under age 24 and person claiming dependent must have provided over half of total support for each dependent claimed.

#### b. Evaluation of income

Exempted income:

- i. Social Security Disability Insurance (SSDI).
- ii. Supplemental Security Income (SSI).
- iii. Temporary Aid to Needy Families (TANF).
- iv. General Assistance (GA).
- v. Workers' Compensation.
- vi. Other Long Term Disability Compensation Programs and Federal Exempt Income sources.

**Note:** Pell Grants, merit scholarship monies, etc., are not to be counted as income. They will be addressed under Comparable Services and Benefits in the IPE.

#### c. Nonexempt Income

All other income to client and when applicable, parent(s) or spouse **will** be considered. Examples include, but are not limited to, the following:

- i. Client wages, tips, & royalties (before taxes)
- ii. Income of parent(s) or spouse. This includes parental and spousal income from exempt sources.
- iii. Income from stocks, other dividends or interest income.
- iv. Social Security Survivors and Retirement Benefits.
- v. Unemployment Compensation.
- vi. Insurance, retirement, pensions and other annuities.
- vii. VA benefits.

- viii. Inheritance, settlements. This includes income paid by the Native American Trust (this will typically include a 1099 tax form.)
  - ix. Alimony or child support.
  - x. Business Income, income from rental property.
- d. Liquid assets available:
- i. Checking
  - ii. Savings
  - iii. Other
- e. Determination of Monthly Expenses.
- i. The following financial requirements will be considered allowable expenses:
  - ii. Normal living requirements as determined by the Department of Labor.
  - iii. Monthly court-ordered support payments i.e. alimony, child support for children **not** being counted as dependents. Fines, restitutions, and other non-support payments are **not** allowed.
  - iv. Monthly medical and dental expenses which are **not** reimbursed in addition to any prior medical and dental debts client/family will be paying during the period of VR services.
  - v. Monthly cost of health insurance.
  - vi. Monthly cost of day-care which is necessary to enable client or responsible person to work or participate in a VR program.
  - vii. Other disability related expenses paid by client. Examples include, but are not limited to, actual non-reimbursed payments for:
    - A. Personal assistance services.
    - B. Special transportation.
    - C. Cost of and repairs to prosthetic appliances, mobility aids, and adaptive equipment.
    - D. Cost of therapy - physical, psychological, drug and alcohol, etc.
    - E. Cost of any disability related service for spouse or dependent.

### 8.7 Financial Need Assessment (USOR form 48)

The Determination of Financial Needs is conducted by the VR Counselor with the information supplied by the client on the USOR form 5.

a. Section 1 Completion Information

This section contains the date the form was completed as well as the name of the VR Counselor conducting the assessment.

b. Section 2 Public Support

This section requires transcribing the exempt income reported by the client on the USOR form 5 to the corresponding public support type including:

- i. SSI

- ii. SSDI
- iii. TANF
- iv. General Assistance
- v. Workers Compensation
- vi. Other Needs-Based or Federal. Report income from an exempt source not listed above including Long Term Disability and other federal exempt income sources.

c. Section 3 Computation of Economic Need

This section combines client income, assets, family size, and allowable monthly expenses to determine if the client has a monthly contribution toward nonexempt VR services.

- i. Size of Family Unit. AWARE will automatically include the client in the calculation of the household size. VR Counselors only need add additional family/household members.
- ii. Total Non-Exempt Income. AWARE will adjust the client's nonexempt monthly income entered to reflect the client's annual income.
- iii. Normal Living Requirements. AWARE will add the normal living requirements value that corresponds to the client's reported household/family size. Values used are referenced from the Department of Labor Employment and Training Administration.
- iv. Total Allowable Expenses. VR Counselors will enter the number from the total allowable expenses entry on the USOR form 5.
- v. Subtotal. AWARE calculates this number by subtracting the sum of Normal Living Requirements (monthly) and the Allowable Expenses (monthly) from the Total Nonexempt Income (monthly) and lastly dividing this total by family size.
- vi. Total Liquid Assets. VR Counselors will enter the number from the total liquid assets entry on the USOR form 5.
- vii. Liquid Asset Calculation. AWARE will divide the number from the total liquid assets by 12 to determine the monthly distribution of the liquid assets.
- viii. Required Monthly Client Contribution. AWARE will calculate this number based on the other information entered. VR Counselors should use this number to account for the client's contribution to services when developing the IPE and adding paid services.
- ix. Required Annual Client Contribution. AWARE automatically multiplies the required monthly client contribution by 12 for use when considering long term service (training, etc) or long term tangible goods (van conversions, etc).

## 8.8 Reconsideration of Financial Need

- a. Financial need will be re-evaluated annually; or
- b. Whenever financial or other circumstances regarding the client change significantly; whichever occurs sooner. Examples of circumstances include but are not limited to:
  - i. Marriage or divorce.
  - ii. Other change of dependent status.

- iii. Significant change in income.
- iv. Significant change/amendment to IPE.

The above changes should instigate completion of a new Financial Circumstance report (USOR Form 5) and Financial Need Determination (USOR Form 48).

### **8.9 Disagreement with Determination**

If the client or, as appropriate, client's representative disagrees with the outcome of the determination of financial need, the client has the right to have the determination reviewed. This will be done following the agency's appeal procedure outlined in Chapter 21.